

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**ANTONIO ROBINSON,**

**Plaintiff,**

**vs.**

**JUANITA THORPE,**

**Defendant.**

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**5:06-cv-191 (CAR)**

***ORDER ON THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is a Report and Recommendation (Doc. 59) from United States Magistrate Judge Claude W. Hicks, Jr., which recommends granting Defendant's Motion for Summary Judgment (Doc. 23) and denying Plaintiff's Motion for Summary Judgment (Doc. 45). Plaintiff filed an Objection to the Recommendation (Doc. 63), and pursuant to 28 U.S.C. § 636(b)(1), the Court has made a de novo determination of the portions of the Recommendation to which Defendants object.

In his Objection, Plaintiff continues to argue that his right to access the courts was frustrated when Defendant opened a piece of his legal mail outside of his presence. As explained in the Recommendation, to support such a claim, a plaintiff must establish that his ability to litigate was frustrated by the alleged interference. See Lewis v. Casey, 518 U.S. 343, 349 (1996). As Plaintiff's state habeas corpus petition was denied as successive, and the state court specifically referenced the document Plaintiff alleges Defendant prevented him from timely presenting to the court, Plaintiff cannot show that his petition was harmed or

prejudiced by the alleged interference with his legal mail. Accordingly, the Recommendation is **ACCEPTED**, Defendant's Motion for Summary Judgment is **GRANTED**, and Plaintiff's Motion for Summary Judgment is **DENIED**.

**SO ORDERED**, this 27th day of September, 2007.

S/ C. Ashley Royal  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE

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